

Par.1. **Material Transmitted and Purpose** – Transmitted with this Manual Letter are changes to Service Chapter 400-28 – Child Care Assistance Program (CCAP).

Par. 2. **Effective Date** – Changes included in this manual letter are effective April 1, 2014

Application 400-28-20

1. 400-28-20-35 – Establishing Need. Note has been changed to include policy sections to reference when determining average weekly hours and adding additional hours for a school age child.

Establishing Need 400-28-20-35

For a new application or in an ongoing case, in order for a child to be included on a certificate, the child must have a child care need for the current month or the month following the current month while the caretaker(s) is participating in an allowable activity. All hours the child needs child care in the month need is being established must be taken into consideration (which includes hours needed for days off from school, weekends, after school, etc.). If a child does not have a child care need for the current month or the month following the current month, the child cannot be included on the certificate.

Note: ~~Need must be established prior to adding the additional hours for a school age child.~~ Refer to policy sections 400-28-85-10-05, Child Not in School and 400-28-85-10-10, School Age Child for policy addressing how to determine average weekly hours and adding of additional hours for a school age child.

At time of application, if need has been determined for a child for the prior month only, the child can be added to the 1-month certificate, but would not be included in the 6-month certificate.

If child care is requested for the prior month, actual hours the child needed child care while their caretaker(s) was in an allowable activity in the prior month must be used.

Once need is established for a child and the child is included on the 6 month certificate, the child will remain on the certificate for the remainder of the certificate period as long as all other eligibility criteria is met.

Household Composition 400-28-35

2. 400-28-35-15 – Disability of a Caretaker. This section has been reworded to clarify policy. No changes in policy have been made.

Disability of a Caretaker 400-28-35-15

In a household with two caretakers, child care can be allowed when:

- One of the caretakers is in an allowable activity, ~~the other caretaker is disabled and the disabled caretaker is unable to care for the child(ren); and~~
- The other caretaker is disabled:
 - Must be deemed disabled by the Social Security Administration
 - Presumptive Supplemental Security Income (SSI) does not meet this criteria.
 - State Review Team decisions cannot be used to consider an individual as 'deemed disabled'
 - Verification from the disabled caretaker's physician must be obtained indicating the disabled caretaker cannot care for the child(ren).

~~The individual must be deemed disabled by the Social Security Administration. Presumptive Supplemental Security Income (SSI) does not meet this criteria.~~

~~**Note:** State Review Team decisions cannot be used to consider an individual as 'deemed disabled'.~~

Allowable Activities 400-28-55

3. 400-28-55-05 – Allowable Activities. Added policy to clarify that an allowable is not to be added to a certificate until the month that it is

verified.

Allowable Activities 400-28-55-05

Caretakers must be participating in an allowable activity to be eligible for assistance under the Child Care Assistance Program (CCAP). The following are allowable CCAP activities:

1. Work – Work is an activity in which an individual is engaged through employment or self-employment. Work must entail personal involvement and effort on the part of the applicant or recipient. Self-employment is also considered work.

The following are allowable work activities:

- Paid employment
 - Paid work studies, internships or assistantships (this includes when an individual is in a non-allowable postsecondary education program).
 - Self-employment
2. Job Search - Child care for job search is allowed for eight weeks in a calendar year. When a household includes two caretaker, each caretaker is eligible for eight weeks of job search per calendar year. Job Search hours are limited to 20 hours per week. No additional hours are allowed for travel and breaks.

Exception: TANF recipients must follow the JOBS program guidelines, therefore, the 20 hours per week limitation and 8 weeks within a calendar year limitation does not apply to TANF recipients who are participating in the JOBS program and their JOBS employment plan includes 'Job Search'.

The caretaker(s) must provide a written and signed statement with the dates, time and the job search activity they were participating in (example: submitting the date and time they were submitting applications, interviews). If this is not provided

with the Child Care Billing Report form, the hours are not considered allowable.

3. Education or Training - Child care relating to an allowable education or training activity.

- Allowable postsecondary education includes:

- Certificate
- Associate's degree
- Bachelor's degree

NOTE: The program has been expanded to allow eligible child care costs to be paid for an individual who is pursuing a Bachelor's degree. Allowing for a Bachelor's degree as an allowable activity resulted from, and is contingent upon, the continuance of adequate program funding.

- CCAP may pay eligible child care costs for individuals pursuing a certificate, Associate's degree or Bachelor's degree provided the individual has not already earned a Bachelor's degree.

NOTE: Payment of postsecondary educational related child care costs incurred by an individual who already has earned a Bachelor's degree is prohibited. See policy in 400-28-60, Non-Allowable Activities.

- Students, at any post-secondary level, whose plans include post-graduate study may have eligible child care costs paid by the program for only those education activities related to the pursuit of that certificate, Associate's degree or Bachelor's degree.
- If an individual has already earned a certificate or Associate's degree, eligible child care costs are allowed if the individual is continuing to pursue another allowable education activity and has not earned a Bachelor's degree.

- Attending high school or alternative high school or pursuing a GED is an allowable activity even if the individual is not participating in Crossroads.
 - Traditional high school "attendance" is defined by the Department of Public Instruction (DPI) as:
 - Full-time - 4 or more classes
 - Part-time - less than 4 classes
 - Attendance in an alternative high school setting for full-time/part-time as identified by the school
 - GED may be full time/part-time.
- If a high school diploma or GED is not required to receive a certificate, it is considered training and is not considered postsecondary education.

Example: A Certified Nurse Assistant (CNA) certificate is **NOT** considered postsecondary education as a high school diploma is not required to receive a CNA certificate.

- Allowable Training includes but is not limited to:
 - Basic remedial education
 - Training designed to assist an individual to achieve basic literacy
 - Training needed to secure or retain employment which includes skills and technology training
 - Vocational Training (trade school or career school)
 - Individuals who are participating in classes for English as a second language
- Internet Classes – Child care related to completing on-line computer classes that meets the allowable education or training requirements is an allowable activity.

- Vocational Rehabilitation education plans must follow CCAP education requirements.

If caretaker fails to provide necessary verification of an allowable activity at the time of application, six month review, or when adding a new household member (waived co-pay to co-pay) the month the information is provided is the month the activity is added to the certificate.

4. 400-28-55-20 – Allowable Activities for Crossroads. Clarified policy in this section to specify that parenting classes are an allowable Crossroads activity during a school break.

Allowable Activities for Crossroads 400-28-55-20

Education, education and work, work during school breaks, or parenting classes, and parenting classes during school breaks are allowable activities for an individual who is eligible for Crossroads.

Financial Eligibility Requirements 400-28-65

5. 400-28-65-10-35–Self-Employment. This section incorporates the standardized EAP Self-Employment Policy This supersedes IM 5192.

Self-Employment 400-28-65-10-35

An individual who is working for themselves, rather than for an employer, is considered self-employed. The individual may be a contractor, franchise holder, owner/operator, partner, etc. The individual must meet the following criteria to be considered self-employed:

1. Earn the income directly from business or trade, not from wages or salary from an employer.
2. Be responsible for the payment of entire Social Security and Federal withholding taxes. [If an employee, the employer would pay half of their Social Security Tax and withhold federal income tax from the employee's salary.]

3. File self-employment tax forms, however, not all individuals file tax forms. In these special circumstances, income must be anticipated.

Calculating Self-Employment Income

Self-employment income is normally calculated by completing the EAP Self-Employment Worksheet using data from tax forms as verification. Information for each business must be calculated separately. When a household has filed self-employment income taxes the income is determined as follows:

- If the income represents a household's annual income, the income must be annualized over a 12-month period of time, even if the income is received within a shorter period of time during those 12 months.
- If a self-employment enterprise has been in existence for less than a year and continues to operate, the income must be averaged over the period of time the business has been in operation.
- If an individual is self-employed for only part of the year to supplement their income from regular employment, the self-employment income must be averaged over the period of time it is intended to cover rather than a 12-month period.

Example:

An individual may be a self-employed painter during the three summer months and works as a housekeeper for regular wages the rest of the year. The self-employment income from painting is averaged over the three summer months because it is intended to meet the individual's needs for only part of the year.

When the total business 'profit' as calculated above results in a loss:

- Zero income will be used. A loss from a self-employment business cannot be used to offset or reduce income from other self-employment or other sources such as earned income.

Anticipating Self-Employment Income in Special Circumstances

When a household has not filed a self-employment income tax return or there has been a significant increase or decrease in the operation of the business, income tax forms, monthly ledgers or bookkeeping records may be used as verification. The income is determined as follows:

1. Business Not In Operation a Complete Calendar Year or Tax Forms Not Filed

a. The applicant will need to provide monthly income and expense ledgers to anticipate self-employment income and unearned income as a result of self-employment. The EAP Anticipated Self-Employment Worksheet will assist with determining the monthly net farming and business income.

2. Partial Liquidation of Business

a. If a business sells some land, equipment, or other capital items to obtain money for current operating expenses and/or pay off a loan, and does not expect a substantial reduction in self-employment income as a result of the sale, continue to look at the most recent income tax forms.

b. If the business liquidates a large enough portion of the business to result in an anticipated substantial reduction in the self-employment income, the income tax forms must be appropriately adjusted to accurately anticipate the current year's income using the most recent income tax forms. Income and expenses (other than depreciation and depletion) for the portion of the business that is not being liquidated is used to determine net selfemployment income.

Capital gains/losses on sale of property are counted as income.

NOTE: Use only the income or loss from the sale of capital items that can be reasonably anticipated to recur during the current year.

c. If the business expects to liquidate partially but has not done so yet, use the most recent income tax forms in their entirety until the liquidation takes place.

3. Significant Increase or Decrease in Operation

A farm or business may have a significant increase or decrease in operation that is temporary and does not result in liquidation of the business. In these cases, one of the following methods must be used:

a. If the applicant has had an estimated tax return prepared for the current business year, use the estimated tax return forms to complete the EAP Self-Employment Worksheet.

b. If the applicant has prepared documents (such as farm plans) from a lender or bank or monthly income and expense ledgers, these documents may be used to arrive at the current year's anticipated income and expenses. The EAP Anticipated Self-Employment Worksheet will assist with determining the monthly net farming and business income. Anticipated capital gains/losses on sale of property are counted as income.

4. Termination Of Business

a. If a business expects to completely liquidate but has not done so yet, continue to use the most recent income tax forms or one of the methods described in #3 above until the business has liquidated.

b. If a business has been completely liquidated, tax forms cannot be used to evaluate the applicant's income. Use only whatever income is currently available from other sources.

Treatment of Self-Employment Income

When an individual is actively engaged in a self-employment business, the income they receive is considered earned income. The following types of income are always considered earned income:

- Capital or Ordinary Gains/Losses
- Farm Income
- Business Income
- Partnership – Ordinary income, guaranteed payments to partners, depreciation and depletion

However, there are some types of income included on the self-employment income tax forms that are considered unearned income. The following types of income are always considered unearned income:

- Royalty income
- Cooperative distributions (patronage dividends)
- Partnership – rental, interest and dividend income
- Income from S-Corporations
- Estate or trust income

The following types are considered earned or unearned depending on whether the individual is actively engaged in earning the income and the self-employment tax forms filed.

- Farm rental income
- Other rental income

The earned income must be separated from the unearned income and will be when using the self-employment calculation worksheet.

Determining Self-Employment Income

1. Capital or Ordinary Gains or Losses – A capital or ordinary gain or loss is the difference between the sale price and the cost basis. The cost basis may include improvements and sales expenses such as broker's fees and commissions.

Capital or ordinary gains or losses are considered part of the **EARNED** income from self-employment. The gain or loss is calculated by deducting the cost basis from the gross sale price. The result is then added to or subtracted from the

calculation of the self-employment income for the business the property was used in.

NOTE: Use only the income or loss from the sale of capital items that can be reasonably anticipated to recur during the current year.

This income is generally included on the Schedule D or Form 4797.

2. Farm Income – Income earned through the operation of a farm or ranch including farm rental income and CPR.
 - a. Farm Rental Income – Income received by a landowner from the sale of crops or livestock produced by the tenant. This does not include cash rent of pasture or farmland.
 - b. Conservation Reserve Program Payments (CRP) – Cost share and payment program under the USDA that encourages farmers to convert highly erodible crop land or other environmentally sensitive acreage to vegetative cover.

Farm income, including farm rental income and CRP:

- Is considered **EARNED** income when the individual is actively engaged in farming. The total farm income or loss is determined by taking the taxable amount of cooperative distributions (patronage dividends) from the net farm income and adding in the depreciation.

The amount of cooperative distributions is deducted from farm income as it is considered unearned income. Depreciation is added back in as this is not an allowable expense.

This income is generally included on the Schedule F.

- Is considered UNEARNED income as a result of self-employment when the individual is NOT actively engaged in farming. The total farm rental income or

loss is determined by taking the taxable amount of cooperative distributions (patronage dividends) from the net farm rental income and adding in the depreciation.

The amount of cooperative distributions is deducted from farm rental income as it is considered unearned income on a separate line in the calculation. Depreciation is added back in as this is not an allowable expense.

This income is generally included on the Form 4835.

3. Business Income – Income earned through the operation of a business other than farming or ranching.

Business income is considered EARNED self-employment income. Business income is determined by taking the net business income profit or loss and adding in the depletion or depreciation. Depreciation and depletion are added back in as they are not allowable expenses.

This income is generally included on the Schedule C.

4. Partnerships – A partnership is a self-employment business set up as a partnership with two or more partners. A partner's share of income, gain, loss, deductions or credits is determined by a partnership agreement.

- Ordinary income and guaranteed payments to partners in a partnership are considered EARNED self-employment income. This income is generally included on the Schedule K-1 (Form 1065). The partner's share of the partnership income is determined by adding the partner's share of depreciation or depletion to their ordinary income and guaranteed payments. Depreciation and depletion are added back in as they are not allowable expenses.

The depreciation and depletion are generally included on the Form 1065.

- Rental, interest and dividend income paid to partners in a partnership are considered **UNEARNED** income as a result of self-employment. The partner's share of the partnership income is the total of the rental, interest and dividend income. This income is generally included on Schedule K-1 (Form 1065).

5. Other Rental Income – Income received from the cash rental of property.

Other rental income is considered **UNEARNED** income as a result of self-employment. Rental income is determined by taking the total net rental income from all rental properties and adding in the depreciation or depletion. Depreciation and depletion are added back in as these are not an allowable expense. This income is generally included on Schedule E.

6. Royalty Income – a percentage of gross or net revenues derived from the use of an asset or a fixed price of a unit sold of an item.

Income individuals receive from royalties is considered **UNEARNED** income as a result of self-employment. Royalty income is generally included on Schedule E.

7. Cooperative distributions (patronage dividends) - are paid by cooperatives in cash or shares of stock. These dividends are similar to rebates paid based on the amount of goods bought or services used for the self-employment enterprise.

Income individuals receive from cooperative distributions or patronage dividends is considered **UNEARNED** income as a result of self-employment. Cooperative distributions or patronage dividends are generally included on Schedule F and Form 4835.

8. S –Corporation – a separate business entity with 1 to 100 shareholder(s) that passes through the net profit or loss to their shareholder(s). The business profits are taxed at individual tax rates on each individual shareholder’s income tax.

Income shareholders receive from a corporation is considered UNEARNED income as a result of self-employment. This income is generally included on the Schedule K-1 (1120S). The shareholder’s income is determined by adding the shareholder’s share of depreciation or depletion to their ordinary business income, net rental real estate income, interest income and dividend income. Depreciation and depletion are added back in as these are not an allowable expense. Depreciation and depletion are generally found on the Form 1120S.

NOTE: An owner or employee of a corporation is not a self-employed individual because the business income and liabilities belong to the corporation, not the individual. Wages that an owner or employee receive from a corporation are considered earned income.

9. Estate or Trust Income – Income received from an estate or trust.

Income individuals receive from estate or trusts is considered **UNEARNED** income as a result of self-employment. Estate or trust income is generally included on Schedule E.

Other Types of Self-Employment Income

The following types of income may or may not be listed on self-employment tax forms. If the income is not listed on the self-employment tax forms, the income must be verified separately.

1. Qualified Service Provider (QSP) – Qualified Service Providers (QSPs) are individuals who provide care for people who want

to continue to live in their own homes and communities. QSPs do not need to have a special certificate or license, but they do need to prove they have the skills to provide care.

- QSP income is considered EARNED self-employment income when the individual is not an employee of an agency.
- QSP income is considered regular earned income when the individual is employed by an agency.

2. Boarder - Individuals or groups of individuals residing with others and paying reasonable compensation for lodging and meals.

Income from boarders is considered EARNED self-employment income when the individual providing the board is actively engaged in providing the lodging and meals and the boarder is not included in the household based on program policy.

To calculate income from room and board, take the monthly gross receipts less \$100 per boarder.

Wages Paid to Family Members

Wages paid to family members are an allowable business expense. However, the wages paid to family members must be counted as earned income separately from self-employment income unless the earned income is specifically excluded by program policy.

The income tax forms identify wages paid to family members as wages or labor hired but does not separate outside labor hired from wages paid to family members. The household will need to identify and verify the amount paid to family members (cancelled checks, W-2 forms, bank books showing transfer of funds).

Allowable Expenses

The following expenses are allowable deductions from self-employment income. Because the EAP Self-Employment Worksheet uses net income any of these expenses claimed on the tax form are already

deducted. The Anticipated Self-Employment Worksheet also accounts for these expenses.

If a household verifies any of the following expenses incurred as a result of self-employment income that were not included on the tax forms, the expense must be allowed by deducting it from the net income.

- Advertising
- Car and truck expenses
- Chemicals
- Commissions and fees
- Conservation expenses
- Contract labor
- Custom hire (machine work)
- Employee benefit programs
- Feed
- Fertilizers and Lime
- Freight and Trucking
- Gasoline, Fuel and Oil
- Insurance (other than health)
- Interest (mortgage and other)
- Labor hired
- Legal and professional services
- Office expenses
- Pension and profit-sharing plans
- Rent or lease (vehicles, machinery, equipment, business property, land, animals)
- Repairs and maintenance
- Seeds and Plants
- Storage and Warehousing
- Supplies
- Taxes (Real estate, employer's match of payroll taxes, contributions to state unemployment insurance, licenses)
- Travel, meals, entertainment
- Utilities and phone
- Veterinary, breeding and medicine
- Wages

- Other expenses such as:
 - Bad debts
 - Bank service charges
 - Dues and publications
 - Laundry and cleaning
 - Tools
 - Day care meal expenses (if not reimbursed through a food program)

Non-Allowable Expenses

The worker must determine if an expense is non-allowable based on whether the expense is part of producing income. The following expenses are not allowable deductions from self-employment income:

- Expenses and net operating losses (NOL) from previous periods.
- Depreciation/depletion - to allow these costs would result in exclusion for amounts that are not actual costs.
- Other expenses that are not incurred as a result of self-employment income, such as:
 - Charitable contributions
 - Penalties and fines

6. 400-28-65-10-35-05 – Documentation/Verification of Self-Employment. This section being repealed effective with IM 5192 – Standardized EAP Self-Employment Policy.

~~Documentation/Verification of Self-Employment 400-28-65-10-35-05~~

~~Self-employment is verified by using the most recent tax return. If the most recent tax return does not reflect a full year of self-employment, a tax return is not filed, or the current condition of the business is not accurately reflected on the past year's income tax return, monthly ledgers or bookkeeping records which show the income and expenses may be used~~

7. 400-28-65-10-37 – Corporation and Partnerships. This section being repealed effective with IM 5192 – Standardized EAP Self-Employment Policy.

Corporation and Partnerships 400-28-65-10-37

~~Countable income from a business entity (e.g. a corporation or partnership) that employs anyone whose income is used to determine eligibility is established as follows:~~

- ~~• If the applicant or recipient and other members of the Child Care Assistance Unit own the controlling interest in the business entity, calculate income using the self-employment rules described in 400-28-65-10-35. If the applicant or recipient and other members of the Child Care Assistance Unit own less than a controlling interest, but more than a nominal interest in the business:~~
 - ~~○ From the business entity's gross income, subtract any cost of goods for resale, repair, or replacement, CRP payments and patronage or cooperative dividends, and subtract any wages, salaries, or guarantees (but not draws), paid to actively engaged owners to arrive at the business entity's adjusted gross income; and~~
 - ~~○ From the adjusted gross income, establish the applicant or recipient's income share based on the Child Care Assistance Unit's proportionate share of ownership in the business entity; and~~
 - ~~○ Add any wages, salary, or guarantee paid to the applicant or recipient to the applicant or recipient's income share; and~~
 - ~~○ Apply the self-employment income disregards described in 400-28-65-10-35 and~~
 - ~~○ Based on the applicant's or recipient's proportionate share of ownership in the business entity, establish the individual's share of the CRP payments and patronage or cooperative dividends as unearned income; or~~

~~If the applicant or recipient and other members of the Child Care Assistance Unit, in combination, own a nominal interest in the business entity, and are not able to influence the nature or extent of employment by that business entity, the individual's earned income as~~

~~an employee of that business entity, plus any unearned income gained from ownership of the interest in the business entity.~~

Budgeting For the Child Care Assistance Program 400-28-75

8. 400-28-75-10 – Prospecting Income for the Certification Period.
Wording correction made to change 'certificate' to 'certification'.

Prospecting Income for the Certification Period 400-28-75-10

Gross income, **either earned or unearned**, must be determined prospectively because eligibility is determined for a specific certification period. The gross income used to issue the certificate must be reflective of the gross income for the period of time the certification period covers.

If during a certification period, income must be updated for the final month of the certification period, the income that is used must be from the final month or the month prior to the final month as the gross income must be reflective for the period of time the certification period covers.

Each source of non-exempt income received by the household must be considered separately to determine what the prospective income from that source will be.

Determining prospective income includes converting earned and unearned income.

Exception: Child Support income is not converted.

9. 400-28-75-15 – Determining Prospective Income at Application.
Wording correction made to change 'certificate' to 'certification'.

Determining Prospective Income at Application 400-28-75-15

All gross earned and unearned income received in the month of application through the date the application is received in the county social service office must be verified and documented.

All gross earned and unearned income received in the month prior to the application month must be verified and documented.

If all gross income for the month of application from a specific source is available and reflects a full month's worth of income and the caretaker does not anticipate any changes, that income must be verified.

- If the caretaker provides the verification in the allotted timeframe, that income is used for all months of the certification period including the application month.
- If the caretaker does not provide the verification in the allotted timeframe, the application must be denied.

If all gross income from a specific source is not available for the application month, the income from the prior month reflects a full month's worth of income and the caretaker does not anticipate any changes, the prior month's income must be verified.

- If the caretaker provides the verification in the allotted timeframe, that income is used for all months of the certification period.
- If the caretaker does not provide the verification in the allotted timeframe, the application must be denied.

If the caretaker does not anticipate the prior month's or application month's gross income from a specific source to be reflective of the next month's income, the caretaker must provide verification of anticipated income for the next month as any changes in anticipated income must be verified.

- If the caretaker provides the verification in the allotted timeframe, that income is used for all months of the certification period.
- If the caretaker does not provide the verification in the allotted timeframe, the application must be denied.

If the caretaker does not anticipate the gross income from a specific source for the prior month, application month or the month following the month of application to be reflective of the monthly income for the

certification period, the caretaker must provide verification of what the monthly income will be for the certification period.

- If the caretaker provides the verification in the allotted timeframe, that income is used for all months of the certification period.
- If the caretaker does not provide the verification in the allotted timeframe, the application must be denied.

Level of Care 400-28-85

10. 400-28-85-10-05 – Child Not in School. Added clarification that the hours of child care established is divided by 4 to arrive at weekly hours of child care.

Child Not in School 400-28-85-10-05

The child's schedule is the time they need child care based on the caretaker's allowable activity hours and the number of hours the child is required to be in a specific provider's care while the caretaker is participating in their allowable activity. After all hours of child care needed in the month have been established, the total number of hours for the month are divided by 4 to arrive at the average weekly hours of child care needed. The average weekly number of hours the child is required to be in a specific provider's care while the caretaker is participating in their allowable activity will determine the Level of Care from the Provider Rate on the Child Care Sliding Fee Schedule. The Level of Care determination for each provider is entered on the certificate.

Payment of the costs for the hours of child care for a provider exceeding the Level of Care determined for the child will be the responsibility of the family.

Co-Payment Requirements 400-28-90

11. 400-28-90-20 – Waived Co-pay Families. The last paragraph in this section has been reworded for clarification. No policy changes have been made.

Waived Co-pay Families 400-28-90-20

The Co-pay requirement for certain families with very low income will be waived and their child care paid up to the State Rate. These include:

- Families receiving services through the Crossroads Program
- Ineligible/SSI children whose caretaker is receiving TANF or Diversion
- Families receiving TANF or Diversion

Note: Payment of child care is subject to Co-pay when the child care is a result of an activity for a TANF caretaker who is:

- In receipt of SSI
- A Disqualified Alien or
- An ineligible non-legally responsible caretaker

Families who are not subject to the Co-pay requirements are not subject to the income requirements. ~~Child care for the eligible child is paid up to the State Rate.~~ These families do not have to provide verification of their income in order for their eligibility to be determined. Since these families are not subject to co-pay or income requirements, child care may be paid up to the maximum State Rate.

Provider Requirements and Information 400-28-105

12. 400-28-105-50 – W-9 Request for Taxpayer Identification Number and Certification. Added clarification that a new W-9 is required when there is a change in either an SSN or EIN when either is being used as the Taxpayer Identification Number (TIN).

W-9 Request for Taxpayer Identification Number and Certification 400-28-105-50

The "W-9," Request for Taxpayer Identification Number and Certification" must be submitted by the Provider when the following occurs:

- A provider who is going to provide services to a family who is receiving Child Care Assistance
- Lapse between qualified provider period (such as renewal)
- Change in name
- Change in provider type (family to group, group to center, et cetera)
- Change in address
- Change in either Social Security Number (SSN) or Employee Identification Number (EIN) when either is being used as the Taxpayer Identification Number (TIN)

The W-9's should be completed and mailed to:

Child Care Assistance Program

ND Department of Human Services – Dept 325

600 E Boulevard Ave

Bismarck, ND 58505-0250

Child Care Assistance Program Certificate 400-28-120

13. 400-28-120-25 – Certificate End Dates. Wording correction made to change 'certificate' to 'certification'

Certificate End Dates 400-28-120-25

A certificate expires at the end of the certification^{ione} period or at the end of the month the case closes, whichever is earlier. When a certificate is updated, the end date is not changed.

14. 400-28-120-30 – Issuing a Certificate. Changed policy from needing a provider's EIN/SNN to needing a provider's license number when issuing a certificate.

Issuing a Certificate 400-28-120-30

The following information is required to issue a certificate:

- Household composition
- Household income
- Child/spousal support paid out
- The child care provider(s) for each child requesting assistance
- The provider(s)'s license number ~~EIN or SSN~~
- Provider type
- Level of Care required
- Caretaker(s) allowable activity/schedule
- Child(ren)'s schedule (school age)

Upon receipt of this information, the Excel spreadsheet may be used to determine the Co-pay and State Rate. When the Excel spreadsheet is used, a copy must be included in the case file.

The issuance of a certificate does not require submittal of a Child Care Billing Report form.

A certificate is issued:

- At application
- At 6 month review
- When a certificate must be updated

When a certificate is issued, the caretaker is sent a copy of the certificate and the provider(s) is sent a copy of the certificate with the information that applies to the child(ren) for whom the provider(s) has been approved to provide care.

15. 400-28-120-35 – Updating Certificates. Changed policy from updating a certificate when an IPV is imposed, to closing a certificate

Updating Certificates 400-28-120-35

When a certificate is issued, the certificate is not changed unless an eligibility criteria to change a certificate is met.

Eligibility criteria to make a change to a certificate are the results of a change (mandatory, non-mandatory and known information to the agency) which affects the eligibility information contained on the certificate.

A certificate must be updated for the following reasons; however, there may be additional reasons not included that may require the certificate to be updated:

- When there is a change in household size which affects the Child Care Assistance unit household size.
 - Someone moves into the household
 - Someone moves out of the household
- Change in allowable activity
 - Start or end of job search
 - Start of work activity (not previously in any work activity)
 - End of work activity (no longer in any work activity)
 - Start or end of school which includes
 - A postsecondary student completes an associate degree, postsecondary diploma, certificate of completion or any other vocational training course or if the caretaker(s) changes to another course of study.
 - Start or end of TANF, Diversion or Crossroads
- Increase in monthly child care hours for a child if the increase in hours increased the Level of Care the child needs.

Note: Decreases in the Level of Care are not made during the certificate period.
- Changes in provider(s) or addition of provider(s)
- When a provider is no longer being used by the family or the provider is no longer a qualified provider.

- When a child is no longer eligible for the Child Care Assistance Program including but not limited to:
 - turns age 13
 - if age 13 and under 19 and verified care no longer exists
 - enters Foster Care
 - no longer needs care
- State residency
- When a case changes from Waived Co-pay to Co-pay, the certificate must be updated for the month following the month the TANF, Diversion or Crossroads case closes.
- When a case changes from Co-pay to Waived Co-pay, the certificate must be updated effective the month the case is approved for TANF, Diversion or Crossroads.
- When an Intentional Program Violation disqualification penalty is imposed the certificate must be ~~updated~~ closed effective the month the individual is disqualified.

~~**Example:** If an IPV is imposed effective for July, the certificate for July must be updated to remove the disqualified individual from the household size.~~

- **Exception:** Individuals who apply for or are receiving assistance through a federal or state funded program and require child care in order to participate in that federal or state funded program are eligible to receive child care through CCAP in a month they are subject to an IPV disqualification. Individuals that apply for or are receiving TANF, Transition, Diversion, or Crossroads are eligible to receive child care during an IPV disqualification period providing all other factors of eligibility are met.

If a certificate must be ~~updated~~ closed, the caretaker is sent a copy of the updated certificate and the provider(s) is sent a copy of the

certificate with the information that applies to the child(ren) for whom the provider(s) has been approved to provide care.

If a certificate is updated and there are multiple providers for the family, an updated certificate is only sent to the provider whose certificate has been updated. A certificate is not mailed to a provider if there is no change to their certificate.

Change of Address for Caretaker 400-28-127

16. 400-28-127-05 – Moving Within the County. Added clarification at the time of change a address is reported, the certificate remains unchanged as long as no mandatory changes were reported.

Moving Within the County 400-28-127-05

When the caretaker moves and the change of address is within the same county, the eligibility worker must update the address in the Child Care Assistance Program system. The current certificate ~~may~~ will remain in effect if no mandatory changes were reported that need to be acted on.

17. 400-28-127-10 – Moving to Another County. Added clarification at the time of change a address is reported, the certificate remains unchanged as long as no mandatory changes were reported. Change 449 to 448 manual.

Moving to Another County 400-28-127-10

When the caretaker has moved to another county, the case file will be transferred to the new county and the current certificate will remain in effect if no mandatory changes were reported that need to be acted on.

The caretaker may report to either the receiving or the sending county that they are moving or have moved. The county to whom the caretaker reported the move is responsible to inform the family what is needed to allow assistance to continue based on the family's circumstances.

When transferring the case to the new county, the eligibility worker must change the caretaker's address and the fields "Worker ID" and "County" on the Change Master to reflect the information of the receiving county. Transferring the case file to the new county will include use of the SFN 700, "Case Transfer Log" (in 449 [448](#) manual).

Consistent with Service Chapter [449 448](#), the eligibility worker from the sending county is responsible to complete any unresolved actions in the individual's case prior to transferring the file to the receiving county.

Payment Issuance 400-28-135

18. 400-28-135-15 – Payment to the Provider. New policy has been added. The SFN 848 remains in effect until the provider revokes the SFN 848 in writing. A new SFN 848 is required from a provider when a caretaker's case closes and the caretaker becomes eligible using the provider even if a previous SFN 848 is on file for that provider.

Payment to the Provider 400-28-135-15

Unless the provider requests the payment to be issued to the family, all Child Care Assistance Program payments are to be issued to the provider.

If the provider chooses to have the payment go to the caretaker, the provider must complete in its entirety, sign and date a SFN 848, Provider's Request to Pay Parent Directly form. The form must be submitted to the county social service office and must be filed in the caretaker's file. The provider must still complete a 'W-9, Request for Taxpayer Identification Number and Certification'.

The SFN 848 remains in effect until a written statement revoking the SFN 848 is received from the provider or when a caretaker's case closes. If the caretaker reapplies and is eligible using the same provider as before, a new SFN 848 is required from the provider even if a previous SFN 848 is on file for that provider.

Payments are processed daily with the exception of the end of the State Fiscal Year. At the end of the State Fiscal Year, there is usually a 3 day period when payments are not processed.

Payments are issued through an electronic payment card (debit card), direct deposit, or by check in specific cases.

Note: Checks are mailed two working days after the process date. With exception of weekends and holidays, normal delivery **should** be within five business days after the processing date.

The following day care providers receive payments by electronic payment card:

- AR - Approved Relatives (Q)
- IN - In-Home care (I)
- NF - Non-relative in Family Day Care (F, I)
- RF - Relative in Family Day Care (F, I)
- SC – Self-Declaration (S)
- TR - Tribal Registration (R)

The following day care providers will receive payments by direct deposit:

- CT - Centers (C,E,K,M)
- NG - Group Care (G,H)

The following will receive payment by check:

- Payments made to the family instead of provider. The eligibility worker selects this option when entering payments into the Child Care Assistance Program payment system.
- Garnishment of child care payments due to child support obligation of a provider. Child care payments to individuals with a child support obligation are intercepted by Fiscal Administration, Department of Human Services. Fiscal Administration deducts the

required amount and issues the remaining amount to the child care provider. Because of this process, these payments will continue to be issued by check.

Case Closings 400-28-145

19. 400-28-145 – Case Closings. Changed wording from ‘working’ days to ‘business’ days. No change in policy.

Case Closing 400-28-145

Cases must be closed when one or more of the following happens:

1. The caretaker(s) is no longer participating in an allowable activity
2. There is no child in the child care unit who meets the eligibility criteria to be included on the certificate or payment
3. The caretaker does not return a completed SFN 841, Child Care Assistance Program Review, form by the end of the month in which the review is due
4. If the review form is received but
 - a. Is not submitted timely
 - b. Is incomplete and further eligibility cannot be determined
 - c. Indicates the family’s income exceeds the upper income limit for the family size
 - d. The child(ren) for whom child care is being requested is determined not to have a need.
5. If the Co-pay exceeds the lower of the State Rate or the amount billed for all children whom assistance is being requested at the time:
 - When a review is completed
 - An individual is added to the case

- An individual is removed from the case
- A case is changed from Waived Co-pay to Co-pay

Exception: In an ongoing case, if the Co-pay exceeds the lower of the State Rate or amount billed for all child(ren) whom assistance is requested, the case remains open unless it is determined/anticipated that through the remainder of the certificate period, the Co-pay will exceed the amount billed

6. The caretaker moves out of state
7. The caretaker requests that the case be closed (request to close a case may be made verbally or in writing)
8. The mail is returned and there is no forwarding address or has a forwarding address of out of state
9. Mail is returned due to insufficient address
10. A valid certificate no longer exists but the case remains open. In this situation, the case must be closed the end of the month the certificate ended (this applies in cases that were not closed and should have been closed at the end of the month the certificate period ended). In these situations, the case must be closed backwards.
11. The caretaker fails to provide information that has been requested
12. There is no qualified provider for any child(ren) on the current certificate
13. Following the imposition of an Intentional Program Violation against a caretaker of the case causes the case to be income ineligible
14. Caretaker whose name the case is in enters a public institution

15. Factual information exists confirming the caretaker whose name the case is in is deceased
16. Loss of contact
17. Household countable income reaches the highest income level for its household size

A closing notice can be sent to close a case at the end of the current month up to the last **working business** day of the month with the exception of:

- If a closing notice includes a time frame to allow a caretaker to provide information, the caretaker must be allowed the time frame given to provide the information. In these cases, the Child Care Assistance Program case closes on the last day of the month the time frame to provide information falls into.

The Eligibility Worker must inform the caretaker on the closing notice the date the case is closing.

If a notice is generated on a **working business** day, the print date on the notice is the same day that the notice was generated. If the notice is generated on a non-**working business** day (holiday or weekend), the print date is the following **working business** day.

Underpayments and Overpayments 400-28-150

20. 400-28-150-15 – Overpayments. Added clarification that a provider or adult household member may be subject to an overpayment.

Overpayments 400-28-150-15

An overpayment is a correction to benefits paid **to a household provider or adult member of the Child Care Assistance unit** who was originally paid more than they were entitled to receive.

The eligibility worker must promptly take all reasonable and practical steps to establish all overpayments.

Anytime an overpayment is discovered, a determination must be made whether or not to pursue an Intentional Program Violation. (Refer to Section 400-28-160, Intentional Program Violation.)

21. 400-28-150-15-05 – Administrative and Caretaker Errors. Added clarification that a provider or adult household member may be subject to an overpayment.

Administrative an Caretaker Errors 400-28-150-15-05

When the eligibility worker has made an administrative error or discovers a caretaker provider or adult member of the Child Care Assistance unit error resulting in an overpayment, the overpayment must be established and recouped. Process the overpayment in the Child Care Assistance Program payment system and send notification of the overpayment to the caretaker provider or adult member of the Child Care Assistance unit.

All overpayments must be established for the entire period of time the incorrect payment was made regardless of the period of time or the cause of the incorrect payment.

If the wrong provider is paid in error, that provider must return the erroneous payment. If the provider returns the payment to the county social service office, the county shall forward the payment to the Department of Human Services using the appropriate SFN 827, Credit Form. If the provider does not return the payment, contact the State Child Care Assistance Program office and they will initiate the collection process.

22. 400-28-150-15-20 – Notification of Overpayment. Added clarification that a provider or adult household member may be subject to an overpayment.

Notification of Overpayment 400-28-150-15-20

When the case is reworked for the affected month(s) and overpayments established, the household provider or adult member of the Child Care Assistance unit must be sent the 'Overpayment Notification.' This notice informs the household provider or adult member of the Child Care Assistance unit of the amount of the overpayment, the reason for the overpayment and recoupment method.

23. 400-28-150-20 – Recouping Overpayments. Added clarification that a provider or adult household member may be subject to an IPV

Recouping Overpayments 400-28-150-20

The eligibility worker must promptly take all reasonable and practical steps to recoup all overpayments.

Any overpayment, whether resulting from an error made by the household provider or adult member of the Child Care Assistance unit, administrative error, fraud, or a fair hearing decision subsequently made in favor of the county social service office, is subject to recovery regardless of when the overpayment occurred.

Note: Only overpayments occurring under North Dakota's Child Care Assistance Program (CCAP) can be recouped. Requests from other states for recoupment cannot be honored.

The caretaker provider or adult member of the Child Care Assistance unit of the case at the time the claim was established is responsible for repayment of overpayments whether it is an administrative or recipient error.

Example: If Mom has an open CCAP case and Dad is in the home, the overpayment is established in Mom's name. Mom's case closes. Dad reapplies in his name. Dad is not responsible for repayment of the overpayment.

If the case closed and the individual reapplies and begins receiving assistance again, any outstanding overpayment balance must be recouped.

24. 400-28-150-20-05 – Methods of Recouping Overpayments. Added clarification that a provider or adult household member may be subject to an overpayment.

Methods of Recouping Overpayments 400-28-150-20-05

Methods of recovering overpayments are as follows:

- Recoupment from the Child Care Assistance Program (CCAP) payment:
 - 10% for agency and client (non-fraud) related errors
 - 20% for Intentional Program Violations (IPV) (fraud)
- Voluntary repayment – a payment that is made by the caretaker who has a closed case or in addition to the recoupment taken out of their benefit if the caretaker has an ongoing open case. The additional amounts must be sent into the CCAP State Office and CCAP State Office staff will apply the payment in the CCAP system.
- Criminal restitution. If the court has ordered an amount of recovery, either more or less than the amount identified above, the amount ordered by the court will be the only amount recovered.

The amount recouped cannot be less than 10% for client or agency errors or 20% for Intentional Program Violation (IPV) (fraud).

For client errors that are later determined to be IPV, the 10% recoupment will continue until the IPV has been established at which time the recoupment percentage must be changed to 20%.

Note: The ~~household~~ provider or adult member of the Child Care Assistance unit remains responsible for repayment of any overpayments that may have resulted from this violation regardless of eligibility for benefits.

If an underpayment is issued, the existing overpayment will be recouped from the underpayment by the established repayment method that is in place.

When an overpayment exists, regardless of the household's provider's or adult member's of the Child Care Assistance unit eligibility for benefits, the household provider or adult member of the Child Care Assistance unit shall continue to be responsible for repayment of the overpayment.

Appeals and Fair Hearings 400-28-155

25. 400-28-155-20 - Benefits Pending a Fair Hearing. Added clarification regarding a provider's or adult member of the Child Care Assistance unit benefits pending a fair hearing.

Benefits Pending a Fair Hearing 400-28-155-20

If an application was denied and client requested a fair hearing, the denial remains in effect.

If a recipient appeals a decision within 10 days from the date of the notice of adverse action, the case remains open and payment is issued at the same level through the end of the current certification period. If the case has already closed, the case would need to be reverted to open.

If a fair hearing has not been heard at the time the caretaker is due for a 6 month review, the review is completed and a new Co-pay, State Rate, and Level of Care is established for the new certification period.

If the client disagrees with the new Co-pay, State Rate, payment amount, and Level of Care, that is a separate appealable issue.

If the caretaker a provider or adult member of the Child Care Assistance unit is appealing an overpayment within 10 days from the date of the notice of the overpayment, the overpayment will be suspended until the outcome of the appeal has been determined.

If the caretaker is appealing a payment amount within 10 days from the date of the notice of adverse action, the caretaker's Co-pay, State Maximum Monthly Share and Level of Care remain at the same level that was in effect at the time of the appeal.

26. 400-28-155-25 – Results of the Fair Hearing. Added clarification regarding a provider's or adult member of the Child Care Assistance unit results of a fair hearing.

Results of the Fair Hearing 400-28-155-25

If the individual receives a favorable decision, a financial penalty is not applied to the case.

In the event that an individual loses the appeal, any amount paid to the ~~caretaker~~ provider or adult member of the Child Care Assistance unit pending the fair hearing decision shall be considered an overpayment and subject to recovery. Payments made from the date the adverse action should have been implemented that relates to the appeal through the date the decision rendered by the office of administrative hearing is implemented is the amount of the overpayment.

Intentional Program Violation (IPV) 400-28-160

27. 400-28-160-05 – Overview. Added clarification that a provider or adult household member may be subject to an IPV

Overview 400-28-160-05

Any ~~individual~~ provider or adult member of the Child Care Assistance unit who is suspected of withholding information for the purpose of improperly establishing or maintaining eligibility for benefits shall be referred to the Administrative Disqualification Hearings Officer for a determination of an Intentional Program Violation (IPV) or the court system for a determination of fraud. If an ~~individual~~ provider or adult member of the Child Care Assistance unit withheld information that did not result in an overpayment, an IPV can still be pursued due to the fact that the individual withheld information.

28. 400-28-160-10– Intentional Program Violation(IPV). Added clarification that a provider or adult household member may be subject to an IPV

Intentional Program Violation (IPV) 400-28-160-10

An IPV is defined as "an action by an individual, for the purpose of establishing or maintaining eligibility for Child Care Assistance Program (CCAP) or for increasing or preventing a reduction in the amount of assistance".

In order to determine if an individual(s) provider or adult member of the Child Care Assistance unit has committed an IPV, that individual must have intentionally committed any act intended to mislead, misrepresent, conceal, or withhold facts that constitutes a violation of CCAP or any State statute.

Examples:

- A source of income
- Allowable deductions
- A household member
- Falsified billing report form
- Not being in an allowable activity
- Receiving assistance in two states at the same time
- Not being a resident of North Dakota

The use of the term "intentionally" does not mean the eligibility worker has the burden of proving that an individual intended to commit a fraudulent act. The signature of any provider or caretaker on the Application, 6 Month Review form, Change Report form, Child Care Billing Report form or any other appropriate materials attests to providing factual information that is required to determine eligibility.

29. 400-28-160-15 Types of Intentional Program Violation(IPV). Added clarification that a provider or adult household member may be subject to an IPV. Added that in cases of provider fraud, the state office should be contacted for processing.

Types of Intentional Program Violations (IPV) 400-28-160-15

An IPV disqualification can be established in the following two ways:

1. Administrative Disqualification Hearing (ADH) is pursued when an individual is suspected of intentionally withholding information that results in improperly establishing or maintaining eligibility for Child Care Assistance Program (CCAP) benefits. ADH procedures should be initiated in instances when there is sufficient documentary evidence to substantiate that an individual has committed one or more acts of IPV.

An individual has the right to waive an Administrative Disqualification Hearing. The eligibility worker must possess sufficient evidence to warrant holding a disqualification hearing before allowing an individual to waive the hearing.

2. Court Conviction – Fraud is a result of an individual being convicted in federal or state court of having made a fraudulent statement or representation which results in improperly establishing or maintaining eligibility for Child Care Assistance Program benefits.

Upon receipt of the judgment:

- If the judgment includes a CCAP disqualification period, impose the disqualification following the CCAP disqualification time frames. (See Section 400-28-160-35, Disqualification Time Frames)
- If the judgment indicates a disqualification period will NOT be imposed, the judgment must be followed and a disqualification period cannot be imposed.
- If the judgment does not include a disqualification period or is silent as to a disqualification period, the eligibility worker must forward the following information to the Appeals Supervisor to process the findings under the IPV provisions:
 - Criminal Complaint
 - Judgment or Order and

- A cover letter detailing the violation and providing the name, address, and Social Security Number. Inclusion of any prior disqualifications should also be noted
- For judgment related to provider fraud, contact the State Office for processing.

Regardless of the type of IPV, the appropriate notice must be sent to the ~~household~~ provider or adult member of the Child Care Assistance unit notifying the provider or adult member of the Child Care Assistance unit ~~household~~ that an individual is disqualified ~~and/or assistance will be reduced or ended if applicable.~~ The conviction and disqualification information and copies of supporting documents (including conviction information) must be recorded in the case file. If a disqualified person moves from one county to another, include disqualification information in the case transfer information.

After a disqualification hearing, there are no further appeal procedures available through the Administrative Hearing Process. The determination of IPV cannot be reversed by a subsequent hearing. The individual, however, is entitled to seek relief in a court of appropriate jurisdiction. The period of disqualification may be subject to stay or other action which would delay the imposition of the disqualification.

30. 400-28-160-20 – Evidence Evaluation. Changed policy to clarify that a provider or adult household may be subject to an evidence evaluation to determine if a violation has been committed.

Evidence Evaluation 400-28-160-20

The following procedure is suggested to evaluate the evidence to determine if a violation has been committed:

- Review the case and all evidence with the eligibility supervisor, director, or the regional representative of Economic Assistance.
- If the evidence is sufficient for referral to the hearings officer, the referral shall be made regardless of any legal action planned against

the ~~household member~~ provider or adult member of the Child Care Assistance unit.

31. 400-28-160-25 - Initiating Administrative Disqualification Hearing Process. Added clarification that a provider or adult household member may be subject to an IPV. IPV Timeframes have been changed to 6 months for 1st violation and 12 months for a 2nd violation. Policy has been removed as the disqualified individual is ineligible for CCAP. Bullet has been removed and created a new paragraph.

Initiating Administrative Disqualification Hearing Process 400-28-160-25

The Administrative Disqualification Hearing process should be initiated in instances when there is sufficient documentary evidence to substantiate that an individual has committed one or more acts of IPV. The following procedures are recommended:

1. The county social service office shall complete the first portion of SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation.

Indicate the ~~household member~~ provider or adult member of the Child Care Assistance unit against whom there is evidence of a violation. In most instances this will be the ~~household member~~ provider or adult member of the Child Care Assistance unit who has completed the application, review or change report form, child care billing report form or any other appropriate materials used in the eligibility process containing the false information.

If there is more than one caretaker in the case, IPV can be pursued against one or both of the caretakers. A separate SFN 1940 TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation must be completed for each caretaker for whom IPV is being pursued.

When completing the 'description of evidence' section of the SFN 1940 TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation form, be brief and to the point. Address the specific household member provider or adult member of the Child Care Assistance unit. Identify what the household member individual misrepresented, as well as when and how. Describe what is believed to be the true information and where the information came from.

Note: If more room is needed, use a second sheet.

2. The eligibility worker must attempt to hold a meeting with the household member to discuss the suspected IPV within two weeks of establishing the suspected IPV.

Note: The preferred method for arranging the meeting is to send the household member provider or adult member of the Child Care Assistance unit of a notice through the automated computer system.

- If the individual suspected of an Intentional Program Violation attends the meeting, the individual shall be given a copy of the DN 1087, Legal Service Organizations form. This serves to meet the federal requirement that individuals being considered for Administrative Disqualification be notified of the availability of free legal assistance.
 - If during the meeting it is determined there was no Intentional Program Violation, SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation is placed in the case file with a notation that it was not forwarded for further action along with a summary of the explanation as provided by the individual. However, any overpayments must still be established and recovered.

- If during the meeting, the county believes the violation did occur and the individual has no satisfactory explanation, SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation is to be given to the individual, along with an explanation and the consequences relating to the signing of Part A or B of the Waiver of Hearing.
 - Waiver A - Allows an individual to admit to the facts and accept the disqualification period.
 - Waiver B – Allows an individual to accept the disqualification without admitting to the facts.

In order to waive their Administrative Disqualification Hearing, the individual must sign either part A or B of the waiver located on the SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program violation.

A signed waiver is a statement that the household provider or adult member of the Child Care Assistance unit has been informed a disqualification penalty will result.

The eligibility worker must explain that signing Part A or B of the Waiver of Hearing will result in specific program disqualification:

- ~~12~~ 6 months for a 1st violation,
- ~~24~~ 12 months for a 2nd violation, and
- Permanently for 3rd and any subsequent violation.

~~Continued eligibility for Child Care Assistance Program (CCAP) requires that at least one member of the household retains CCAP eligibility.~~

~~Only the individual(s) found to have committed the violation or who signed the waiver or the consent agreement in court cases, and not the entire household, shall be disqualified. The disqualified individual's income and allowable deductions will continue to be used in determining eligibility and benefit amount.~~

- ~~If during the meeting the individual suspected of an Intentional Program Violation signs the Waiver of Hearing:~~
 - Provide the individual a copy of SFN 1940 TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation; and
 - Mail the SFN 1940 TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation, detailing the violation to the Appeals Supervisor, North Dakota Department of Human Services, Judicial Wing, 600 East Boulevard Avenue, Bismarck, ND 58505-0250.

Note: If Part B is signed, a cover letter detailing why the individual signed Part B rather than Part A must also be sent to the Appeals Supervisor.

- If during the meeting, the individual suspected of an Intentional Program Violation refuses to sign the Waiver of Hearing:
 - Explain that a hearing will be held, usually by telephone, unless they request that a hearing officer be present as indicated on the SFN 1940 TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation.
 - Give the individual a copy of the SFN 1940 TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation.
 - Mail the original along with a letter detailing the violation, copies of relevant parts of the application, review, change report form, child care billing report form and other supporting documentation obtained,

etc., to the Appeals Supervisor, North Dakota
Department of Human Services, Judicial Wing, 600
East Boulevard Avenue, Bismarck, ND 58505-0250.

Note: It will not usually be
necessary to copy the entire
application or review as long
as it is identified.

3. If the individual suspected of an Intentional Program Violation fails to respond within 10 days to a request for a meeting or agrees to a meeting but fails to appear for the meeting:

- Forward the SFN 1940 TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation, along with a letter detailing the violation, to the Appeals Supervisor, North Dakota Department of Human Services, Judicial Wing, 600 East Boulevard Avenue, Bismarck, ND 58505-0250.

Prior to receipt of a disqualification decision, the household will continue to participate at the same benefit level as any other household while awaiting a disqualification decision. The overpayment continues to be collected at the rate of 10%. Full repayment of the overpayment does not stop the disqualification procedure from taking place.

4. If the notice is returned as undeliverable or with no forwarding address, the IPV shall not be forwarded to the Legal Advisory Unit for a hearing, as an IPV hearing cannot be scheduled by the Office of Administrative Hearings (OAH) if the notice cannot be mailed (and received) by the recipient.

- The IPV information shall be placed in the casefile until an address is known, at which time the Eligibility Worker can begin the proceedings.

32. 400-28-160-35 – Disqualification Time Frames for Intentional Program Violations (IPV). Policy has been changed to disqualify individuals for an IPV for 6 months for the 1st offense and 12 months for the 2nd

offense. Added clarification that a provider or adult household member may be subject to an IPV

Disqualification Time Frames for Intentional Program Violations (IPV) 400-28-160-35

Individuals Providers or adult members of the Child Care Assistance unit who have committed an Intentional Program Violation (IPV) will be disqualified the following time periods:

- ~~12~~ 6 months for the 1st offense
- ~~24~~ 12 months for the 2nd offense
- Permanently for the 3rd or subsequent offense

33. 400-28-160-40 – Penalty for Intentional Program Violations (IPV). Policy has been changed to reflect new IPV requirements. Disqualified individuals who are caretakers or household members are now ineligible for CCAP during the IPV disqualification period.

Penalty for Intentional Program Violations (IPV) 400-28-160-40

Upon receipt of the hearing decision, the county shall impose the required penalty ~~whether the case is currently open or closed~~. Once the disqualification penalty is imposed, the disqualification penalty period continues uninterrupted until completed. ~~regardless if the case is open or closed.~~

The start date of the disqualification period is determined by the Appeals Supervisor. ~~Imposing the disqualification is required even if it means that some individuals may not be affected by the disqualification.~~

An individual who is disqualified due to an IPV is not allowed to participate in the Child Care Assistance Program during the IPV disqualification period:

- If a disqualified individual applies for CCAP as a caretaker, the application is denied and the entire CCAP unit is ineligible.
- If a disqualified individual is a household member in an application or in an ongoing case, the entire CCAP unit is ineligible.
 - **Exception:** Individuals who apply for or are receiving assistance through a federal or state funded program and require child care in order to participate in that federal or state funded program are eligible to receive child care through CCAP in a month they are subject to an IPV disqualification. Individuals that apply for or are receiving TANF, Transition, Diversion, or Crossroads are eligible to receive child care during an IPV disqualification period providing all other factors of eligibility are met.

~~**Note:** Waived Co-pay (TANF, Diversion and Crossroads) individuals will not be affected by an IPV as their income is not considered. However, at the time the IPV is imposed, change the household size to reflect the individual as disqualified and at the end of the disqualification period, change the household size to include the individual. If during the disqualification period the family becomes subject to Co-pay requirements, the affects of the IPV will apply.~~

~~When an overpayment exists, regardless of the household's eligibility for benefits, the household shall continue to be responsible for repayment of the overpayment which resulted from this violation.~~

~~The individual convicted of fraud is the only household member disqualified. Other household members may remain eligible.~~

~~When applying the disqualification penalty:~~

- ~~1. The disqualified individual is removed from the household size.~~

~~2. Income and allowable deductions of the disqualified individuals continue to be considered when determining eligibility for the remaining household members.~~

Overpayments are recovered through a reduction of the Child Care Assistance Program payment. The rate of recovery for IPV is 20%.

Contact the state office for processing of overpayments for a provider IPV.

When an overpayment exists, regardless of the provider's or adult member's of the Child Care Assistance eligibility for benefits, the provider or adult member of the Child Care Assistance shall continue to be responsible for repayment of the overpayment which resulted from this violation.

~~When a disqualification penalty is imposed, the certificate must be updated to remove the disqualified individual from the household size. The disqualified individual's income and allowable deductions continue to be used.~~